



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,644	01/05/2006	Erwin Fertig		7285

60333 7590 11/21/2006

EDWIN D. SCHINDLER
FIVE HIRSCH AVENUE
P.O. BOX 966
CORAM, NY 11727-0966

EXAMINER

MASINICK, MICHAEL D

ART UNIT PAPER NUMBER

2125

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/559,644

Applicant(s)

FERTIG ET AL.

Examiner

Michael D. Masinick

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-27 (and 14B) is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 14-24 (and 14B) is/are rejected.
- 7) ☒ Claim(s) 25-27 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claims 14-27 are pending in this application. Claims 1-13 were cancelled via preliminary amendment.

Claim Objections

1. Claim 27 objected to because of the following informalities: The word “apparatus” is misspelled. Appropriate correction is required.
2. There are two claims labeled “Claim 14”. Examiner has re-labeled the second claim 14 to be 14B to distinguish it from the other claims, however, this claim should be renumbered and placed at the end of the claim tree in an amendment.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Specifically claim 20 notes that the radio communication is carried out via infrared. Examiner believes these to be two different technologies that are not generally used together. Appropriate correction or explanation of how radio frequency communication is done via infrared is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 14, 15, 16, 21-24 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,788,980 to Johnson.

8. Referring to claim 13, Johnson shows a packaging apparatus, comprising: a central control unit (Enterprise Server 52); a plurality of sensors (Column 1, line 57); a plurality of actuators (Column 1, line 56); a drive system (Column 2, lines 1-6); means for recording in digital format actual values of said plurality of sensors; actual values of said plurality of actuators and actual values of said drive system (Column 8, lines 28-39); means for determining setpoint values or control commands for said drive system (Column 13, “process control” section); means for transmission in digital format of said setpoint values of control commands for said drive system between said drive system and said central control unit via a transmission protocol from said central control unit via said means for data transmission to said plurality of actuators or said drive system (Figures 1 and 2 - network); means for data transmission between said plurality of sensors, said plurality of actuators, said drive system and said central control unit of said actual values of said plurality of sensors (Figures 1 and 2 – network), said actual values of said plurality of actuators and said actual values of said drive system recorded by said

Art Unit: 2125

means for recording in digital format (These setpoints are maintained via a java-based website system which inherently has a storage medium), said means for data transmission including wireless transmission means (Column 6, lines 6 and 7) and a transmission protocol for said wireless transmission means operating cyclically with short cycle times and performing a synchronization of said plurality of sensors ("Time Synchronization" – Column 14, lines 34-38), said plurality of actuators and said drive system with time-dependent action and further providing said actual values and said setpoint values or control commands for said drive system in each cycle and accuracy of said synchronization in a microsecond range (Column 14, lines 34-38); means for evaluating data received by said central control unit from said plurality of sensors, said plurality of actuators and said drive system ("Plant information management system" – Column 14); and, means for eliminating errors in said means for data transmission and said means for transmission in said digital format (All standard wireless protocols have error correction built into the system as wireless data loss is very common and these error correction systems are necessary to have a functional system).

9. Referring to claim 15, Johnson shows wherein said short cycle times are in a millisecond pulse (Column 14, line 36).

10. Referring to claim 16, Johnson shows wherein said means for eliminating errors in said means for data transmission and said means for transmission in said digital format includes an HDLC procedure. Examiner notes that HDLC procedures are part of the standard for internet communication. Johnson shows the use of internet communication between computers which inherently uses an HDLC procedure.

11. Referring to claims 21 and 22, Johnson shows wherein said means for data transmission takes place bidirectionally or unidirectionally (Figures 1 and 2. Sensors can be read only and may not receive data).
12. Referring to claim 23, Johnson shows a programming unit connected to said central control unit (Figure 2 – Operators Console).
13. Referring to claim 24, Johnson shows wherein data of slow running processes are only recorded in individual time-spaced cycle pulses, so that only the data of fast running processes are contained in cycle pulses contained in between (Column 14, lines 35-38).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 14B, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,788,980 to Johnson as applied to claims 13, 15, 16, 21-24 above, and further in view of U.S. Patent No. 6,415,439 to Randell et al.
16. With reference to what was shown above, Johnson does not show a servo motor controlled by specifying position data at associated points in time done by wireless communication by RF, broadband radio, and infrared.

17. Randell shows a protocol for a wireless control system having a servo motor controlled by specifying position data at associated points in time done by wireless communication by RF, broadband radio, and infrared.

18. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the protocol for wireless control of servo motors as part of the control system of Johnson because it allows for several wireless devices to be controlled simultaneously by a single controller (similar to Johnson), engages in bidirectional communication, is forward compatible and is inexpensive.

Allowable Subject Matter

19. Claims 25-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael D. Masinick whose telephone number is (571) 272-3746. The examiner can normally be reached on Mon-Fri, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2125

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Michael D Masinick
Examiner
Art Unit 2125

3

MDM, November 11, 2006